IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 11TH OCTOBER 2007 / 19TH ASWINA 1929

Crl.MC.No. 3143 of 2007()

MC.5/2007 of JUDL. MAGISTRATE OF FIRST CLASS COURT, IDUKKI

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PETITIONER: RESPONDENT

AUGUSTY,S/O. AUGUSTRY MARUTHUMMOOTTIL HOUSE, KULAMAVU PO, IDUKKI DISTRICT.

BY ADV. SRI.GEORGEKUTTY MATHEW

RESPONDENTS:

STATE OF KERALA REPRESENTED BY PUBLIC PROSECUTOR HIGH COURT OF KERALA,ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.M.S.BREEZ

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 11/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

Crl.M.C.No.3143 of 2007

Dated this the 11th day of October, 2007

O R D E R

The petitioner is the defacto complainant in a crime registered alleging offences punishable under Section 366 and 494 I.P.C. It is his case that the accused had enticed his daughter and committed the offence punishable under Section 366 I.P.C. It is his further case that against the daughter, crime under Section 494 I.P.C has also been committed. Investigation was conducted. Final report has been filed. Cognizance has been taken. According to the petitioner, he has now settled his disputes with the accused. He had offered himself as a surety for the accused who is at present his son in law. The accused is now not available. Notice under Section 446 I.P.C has been issued to the petitioner and an M.C. has been registered against the petitioner for breach of the conditions of the bond. According to the petitioner, he now has no grievance against the accused. He therefore prays that the 446 proceedings initiated against him may be quashed.

2. Significantly, there is no prayer for quashing of the prosecution itself. Obviously the petitioner cannot make that request because it is admitted that some acrimony has developed between the husband and wife and the wife may not be willing to come before the

court. The petitioner's predicament may be unfortunate. But I find no justification in the prayer to invoke the powers under Section 482 Cr.P.C to quash the proceedings initiated under Section 446 Cr.P.C. The petitioner along with his daughter and son in law can make an application for quashing the proceedings. That is obviously not done. The only remedy available to the petitioner is to appear before the learned Magistrate and seek indulgence of the learned Magistrate under Section 446 Cr.P.C. This Crl.M.C is without any merit and is accordingly dismissed.

(R.BASANT, JUDGE)

rtr/-